

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.5210 Procedures for Elective and Mandatory Filing of Combined Returns

TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.5210 Procedures for Elective and Mandatory Filing of Combined Returns

- a) Conditions of the election and election procedures. This subsection (a) applies to taxable years ending on or after December 31, 1985 and prior to December 31, 1993.
 - 1) Conditions
 - A) The election, if made, must include all eligible members of the unitary business group, not just some.
 - B) For taxable years ending on or after December 31, 1987, taxpayers are not required to have the same taxable year.
 - C) For taxable years ending on or after December 31, 1985 and before December 31, 1987, taxpayers were required to have the same taxable year to be eligible for the election. Corporate members with taxable years which were different from the common taxable year were required to file their own separate unitary returns or, in the case of two or more corporate members which have the same taxable year that is different from other corporate members making the election, they were allowed to elect to file their own combined return.
 - 2) Consent. The election to file a combined return shall be upon the condition that all eligible members shall consent to this Subpart P, and shall consent to be represented by the designated agent appointed on the Schedule UB in all matters described in Section 100.5220 of this Part. The filing of a combined return that includes the income and factors of any eligible member shall be the consent as to that member. If an eligible member fails to have its income and factors included in the combined return, then the tax liability of that member shall be determined on the basis of a separate unitary return unless the failure of such member was due to a mistake of law or fact, or to inadvertence (as determined by the designated agent) in which case the failure must be corrected prior to the issuance of any Notice of Deficiency. Where such failure is corrected, such member shall be treated as if it had properly consented and been included in the election from the beginning.
 - 3) Making the election. The election is to be made by properly completing and filing a combined return (using Form IL-1120 and Schedule UB) by its due date

(including extensions). In the case of a first combined return year, a combined request for extension of time to file the first combined return can be made.

- 4) **Revocation.** An election to be treated as a single taxpayer for the purposes set forth in IITA Section 502(e) remains in effect until it is revoked. If a taxpayer ceases to be a member, or was never properly a member, of a unitary business group for which an election is in effect, the election will automatically be revoked as to that taxpayer. In the case of a taxpayer that was improperly included in a combined return and whose election has been revoked, the Department shall consider the combined return to be the return filed by the taxpayer only for the limited purposes of determining the limitations period within which certain actions must occur (e.g., the limitations period for issuing a notice of deficiency) and shall use the filing date of the combined return for purposes of determining any late filing penalty. Once an election is in effect for a taxable year, it cannot be revoked for that year unless the combined group is not a unitary business group, in which case the election will automatically be revoked. The Department shall revoke the election for abusive failure to comply with these regulations, such as blatant omission of members or a non-responsive designated agent, if the failure is not rectified after notification to the designated agent. The designated agent may revoke the election on behalf of all members for any taxable year by notifying the Department in writing of its intent prior to the due date for the filing of the return (excluding extensions) at the address stated in the instructions of Schedule UB.

b) **Mandatory filing of combined returns**

- 1) For taxable years ending on or after December 31, 1993, each group of eligible members is required to file combined returns and to be treated as one taxpayer for purposes of any original return, amended return which includes the same taxpayers of the unitary group which joined in filing the original return, extension, claim for refund, assessment, collection and payment and determination of the group's tax liability under the IITA.
- 2) Each combined group is required to properly complete and file a combined return (using Form IL-1120 and Schedule UB) by the due date of the return (including extensions). For the first year for which a combined return must be filed, a single combined request for extension of time to file the return can be made by one member acting as designated agent on behalf of the entire combined group, even though the designated agent will not actually be appointed until the combined return is filed.

(Source: Amended at 22 Ill. Reg. 19033, effective October 1, 1998)